



DISABILITY DISCRIMINATION SUMMER SCHOOL 2006

TEACHING PROGRAMME

Toward Effective Test Case Strategies

Using the European Union Framework Employment Directive (2000/78/EC) in a Disability Context.

6 June – 16 June, 2006.

Contact Details

**Disability Discrimination Summer School,
Disability Law & Policy Research Unit,
Faculty of Law,
National University of Ireland, Galway,
Galway, Ireland.**

Website: <http://www.eusummerschool.info>

Email: disability@eusummerschool.info

Tel: +353 (0)91 492085

Fax: +353 (0)91 495569

SMS/Text messaging: +353 (0)87 6660634



www.stop-discrimination.info

***The working language of the summer school will be English.
Irish Sign Language interpretation will be provided.***

Background Details

The main purposes of the Disability Discrimination Summer School are to impart legal knowledge concerning the context and content of the European Union Framework Employment Directive (2000/78/EC) as it relates to the disability ground and – just as important – to develop the argumentative skills needed to enable the best use to be made of this instrument in a disability context.

Relevant case law under international and comparative law will be explored primarily to gain a vantage point over the Framework Directive and to inform test case strategies in the right direction before the European Court of Justice.

The target audience are persons with disabilities, practicing lawyers, legal advisers to non-governmental organisations (NGOs), judges, law students, legal and other academic scholars and disability NGOs. It will be especially useful to anyone engaged in public interest litigation.

The instructors will be drawn from a diverse range of legal backgrounds including particularly those who have been closely involved in bringing test cases and who are therefore familiar with the pitfalls as well as the argumentative opportunities.

There will be four sections to the Summer School:

Section A will identify the core challenges in making the EU Framework Directive effective on the disability ground. It will set out the background to the Directive and dissect it in order to reveal the main interpretive challenges facing both domestic courts and the European Court of Justice on the disability ground.

Section B will take a sideward glance to reveal how these interpretive options have been confronted under both international law (United Nations and the Council of Europe) and within similar jurisdictions with a long history in the field (Canada, United States of America, United Kingdom, Ireland).

Section C will focus on the litigators' perspective dealing with three key thematic issues under the Framework Employment Directive: Definitions, 'reasonable accommodation' and the reconciliation of 'health & safety' issues with non-discrimination law. Case studies will be carefully selected to immerse participants into the issues and prepare them to frame the arguments appropriately under the Directive. Contributors will address the mechanics of mounting test case strategies before the European Court of Justice as well as substance.

This section will culminate in a Moot Court Exercise involving all students focusing on a key set of issues under the Framework Employment Directive. The Moot Court Exercise is not intended to test students. Rather, it will provide a unique learning opportunity to develop argumentative strategies with the direct assistance and feedback of expert Faculty. The feedback will be designed to enable students to genuinely learn from the experience and to begin reflecting on how best to use the Framework Employment Directive. It will not be formally assessed as such.

Section D will provide space for reflection on the lessons learned. A final address will be given to bring all the strands of the programme together and to motivate participants to remain engaged.

Week 1.

Section A: EU Disability Discrimination Law: Context & History.

This is a scene setting section. The purpose of this Section is to familiarise students with the history of European Union anti-discrimination law generally and in the field of disability. It will trace the rise of the anti-discrimination model and explore some of the key interpretive challenges of the Framework Employment Directive on the ground of disability. It will pose questions about the meaning and potential application of the Directive.

Tuesday, 6 June.

08:30 Registration and Orientation.

09:30 Welcome & Programme Overview.
Professor Gerard Quinn, Director of the Disability Discrimination Summer School, Faculty of Law, National University of Ireland, Galway, Ireland.

10:00: Overview of EU law and the Role of the European Court of Justice.
Professor Dermot Walsh, Department of Law, University of Limerick, Ireland.

14:00. Jurisdiction of the European Court of Justice – how to get cases before the European Court of Justice.
Dr. Laurent Pech, Lecturer, Jean Monnet Chair in European Union Public Law, Faculty of Law, National University of Ireland, Galway, Ireland.

Daily Summary.

Wednesday, 7 June.

09:30 EU Gender Discrimination Law: Leading Cases & Lessons for the Directive.
Eilis Barry, Legal Adviser, Equality Authority, Ireland.

14:00 The European Union Framework Directive: Focus on the Text & Key Legal Issues.
Professor Marc De Vos, Ghent University, Belgium.

Daily Summary.

Thursday, 8 June.

09:30. History of European Union Disability Policy.
André Gubbels, Inspector General in the Walloon Agency for the Integration of People with Disabilities (AWIPH), Belgium.

14:00 Round Table Discussion with participants and invited Non Governmental Organisations summarising the previous sessions.

Daily Summary.

Section B: Benchmarking the EU Directive. International and Comparative Perspectives.

The purpose of this section is to expose students to the manner by which the key interpretive challenges under the Framework Employment Directive have already been confronted under the relevant international human rights law. A knowledge of international law is important since the Directive is said to be anchored in a 'human rights perspective on disability'. An insight into this law should therefore help in the crafting of relevant legal arguments under the Directive.

Likewise, comparative law shows what can be done (or what should not be done) and it is important to be aware of its successes and pitfalls when reflecting on the Framework Employment Directive.

Friday, 9 June.

- 09:30 United Kingdom Disability Discrimination law. Leading Cases.
Caroline Gooding, Special Adviser and Director, Disability Rights Commission, United Kingdom.
- 14:00 Irish Disability Discrimination law. Leading Cases.
Shivaun Quinlivan, Lecturer, Disability Law & Policy Unit, Faculty of Law, National University of Ireland, Galway, Ireland.
- Daily Summary.
- 20:00 Evening event.

Week 2.

Monday, 12 June.

- 09:30 European Human Rights Law. Non-Discrimination Norms under the European Convention on Human Rights and the European Social Charter.
Professor Olivier De Schutter, Professor of Human Rights Law at the Catholic University of Louvain, Belgium.
- 14:00 United Nations Human Rights Law. Non-Discrimination Norms under the International Covenant on Civil and Political Rights & International Covenant on Economic, Social and Cultural Rights.
Andrea Coomber, Interim Legal Director of INTERIGHTS (The International Centre for the Legal Protection of Human Rights), London, United Kingdom.
- Daily Summary.

Tuesday, 13 June.

- 09:30 Canadian Disability Discrimination law. Leading Cases.
Patricia Bregman, Lawyer, Canada.

14:00 Americans with Disabilities Act - focus on 'Reasonable Accommodation'.
Peter Blanck, University Professor and Chairman, Burton Blatt Institute, Syracuse University, United States of America.

Daily Summary.

Section C: Litigating the EU Framework Directive.

Knowing the law in the books is one thing – putting the law into action is quite another. In this section we will hear from leading practitioners in the field on the application of the non-discrimination ideal on the disability ground.

We will be less interested in the law as such and more interested in which argumentative strategies have worked (and failed) and why. And we will also be interested in looking ahead into how legal success can be measured and evaluated.

Wednesday, 14 June.

09:30 Case Study: Litigating the Definition of Disability before the US Courts – Lessons for the Directive.
Professor Michael Stein, Harvard Law School, United States of America.

14:00 Case Study: Litigating Disability Cases through the United Kingdom Courts – Lessons for the Directive.
Robin Allen, Queen's Counsel, Head of Cloisters, Barristers' Chambers, London, United Kingdom.

Daily Summary.

Thursday, 15 June.

09:30 Case Study: Litigating 'Reasonable Accommodation' before the European Court of Justice.
Theresia Degener, Professor of Law, Protestant University of Applied Sciences, Bochum, Germany.

14:00 Coaching of Moot Court Teams.
Professor Michael Stein, Harvard Law School, United States of America.
Professor Lisa Waddington, Professor and Chair in European Disability Law, Maastricht University, Netherlands.

Moot Court Competition.

Judgment.

Section D: Conclusions.

In this section we will draw together the disparate strands of the course through an open student-led discussion. The objective is to identify what lessons can be learnt about how to argue disability discrimination cases before national courts and before the European Court of Justice in order to have maximum impact. Professor Gerard Quinn and other invited speakers will reflect on the challenges ahead and will then formally close the Summer School.

Friday, 16 June.

- 09:30 Lessons Learned – Student Led Discussion.
 Circulation of Evaluation forms.
- 10:15 Closing Address.
*Professor Gerard Quinn, Director of the Disability Discrimination Summer School,
Faculty of Law, National University of Ireland, Galway.*
- 11:00 Morning Break
- 11:30 Presentation of certificates of attendance.
 Personality to be announced.
- 13:00 Lunch.

European Community Action Programme to combat discrimination (2001-2006)

This Summer School is supported by the European Community Action Programme to combat discrimination (2001-2006). This Programme was established to support the effective implementation of new EU anti-discrimination legislation. The six-year Programme targets all stakeholders who can help shape the development of appropriate and effective anti-discrimination legislation and policies, across the EU-25, EFTA and EU candidate countries.

The Action Programme has three main objectives. These are:

1. To improve the understanding of issues related to discrimination
2. To develop the capacity to tackle discrimination effectively
3. To promote the values underlying the fight against discrimination

For more information see:

http://europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm

The contents of this publication do not necessarily reflect the opinion or position of the European Commission Directorate-General Employment and Social Affairs. Neither the European Commission nor any person acting on its behalf is responsible for the use which might be made of the information in this publication.



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